



M E M O R A N D U M
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ENGINEERING AND SURVEYING DIVISION
County of Placer

TO: Board of Supervisors

FROM: Steve Pedretti, Agency Director

BY: Rebecca Taber, Deputy Director

SUBJECT: Lake Tahoe Shorezone Ordinance

DATE: February 16, 2021

ACTION REQUESTED

1. Adopt an ordinance repealing and replacing in its entirety Placer County Code Chapter 12, Article 12.32, "Lake Tahoe Shorezone."

BACKGROUND

This ordinance was previously introduced during the Board of Supervisor's meeting on February 9, 2021. No changes have been made to the ordinance from the version introduced to the Board. The ordinance will repeal and replace in its entirety Placer County Code Chapter 12, Article 12.32 entitled the Lake Tahoe Shorezone. On the same date, the Board adopted a resolution that approved the Pier Fees. Staff now requests the Board adopt the Ordinance.

ENVIRONMENTAL REVIEW

This action is not a project subject to environmental review under the California Environmental Quality Act (CEQA) as defined by CEQA Guidelines section 15378. This action is also exempt under CEQA Guidelines sections 15307 and 15308 because the updated ordinance requires compliance with TRPA and CSLC regulations. Additionally, this action is exempt pursuant to CEQA Guidelines section 15061(b)(3) because it will have no effect on the environment.

FISCAL IMPACT

There is no fiscal impact to the County by adoption of the Lake Tahoe Shorezone Ordinance and corresponding Pier Fees in accordance with the proposed resolution. All costs associated with pier permit processing and ongoing program administration will be reimbursed by project applicants through fee collections.

ATTACHMENT

Attachment 1: Ordinance, "Lake Tahoe Shorezone"

cc: Steve Pedretti, Director, CDRA
Leslie Amsberry, County Surveyor
EJ Ivaldi, Deputy Director, Planning Services
Tim Wegner, Deputy Director, Building Services
Ken Grehm, Director, DPW
Peter Kraatz, Assistant Director, DPW
Steve Newsom, Director, Facilities Management
Laurie Morse, Deputy Director, Facilities Management
North Tahoe Regional Advisory Council

ATTACHMENT 1

Before the Board of Supervisors County of Placer, State of California

In the matter of:

An Ordinance repealing and replacing in its entirety Placer County Code Chapter 12, Article 12.32, "Lake Tahoe Shorezone."

Ordinance No.: _____

Introduced: February 9, 2021

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on, _____ 2021, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, Lake Tahoe is a navigable body of water on the border of California and Nevada; and

WHEREAS, the State of California owns the bed and banks of the California portion of Lake Tahoe up to elevation 6,223 feet Lake Tahoe Datum ("LTD"); and

WHEREAS, the land lying between 6,223 feet to 6,228.75 feet above sea level, LTD, is held in trust by the State of California for the public's use and enjoyment in accordance with *Fogerty v. State of California* (1986) 187 Cal.App.3d 224; and

WHEREAS, the California State Lands Commission administers and issues leases for the lawful use of the bed and banks of the California portion of Lake Tahoe, up to elevation 6,223 feet LTD; and

WHEREAS, the California State Lands Commission protects the public's interest in use of the public trust easement held by the State; and

WHEREAS, the Tahoe Regional Planning Agency is a bi-state agency with the authority to issue permits for uses and structures in the Lake Tahoe Region under the Tahoe Regional Planning Compact; and

WHEREAS, in January 2019, the Tahoe Regional Planning Agency and the State Lands Commission entered a Memorandum of Understanding regarding the permitting of shorezone structures on the California portion of Lake Tahoe; and

WHEREAS, in August 2019, TRPA amended their Code of Ordinances, including Shorezone regulations contained in Chapters 80 through 85; and

WHEREAS, the County relies on TRPA and the California State Lands Commission for comprehensive Lake Tahoe shorezone regulations; and

WHEREAS, a large portion of Lake Tahoe lies within Placer County; and

WHEREAS, the County has an interest in protecting the public's right to access and use lands within the Lake Tahoe shorezone in which the County holds a property interest and has an interest in administering building permits for electrical and plumbing, as required under the California Building Code; and

WHEREAS, the County wishes to update and clarify its role in permitting uses and structures on the portion of Lake Tahoe shorezone within Placer County.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

SECTION 1. Chapter 12, Article 12.32 is repealed and replaced in its entirety as follows:

Article 12.32 LAKE TAHOE SHOREZONE

12.32.010 Scope.

An article regulating the construction, maintenance, alteration, and modification of structures in the Lake Tahoe shorezone within Placer County.

12.32.020 Definitions.

As used in this article:

“Board” means the Placer County board of supervisors.

“County” means the county of Placer, a political subdivision of the state of California, inclusive of staff with delegated authority to review permit applications and carry out the provisions of this ordinance.

“County Property Interest” means county ownership or right-of-way, including but not limited to fee title, easement, lease, or license.

“Person” means an individual, partnership, corporation, business association, or group of individuals, and any governmental entity.

“Pier” means a fixed or floating platform extending from the shoreline over the water used to provide access to boats or for fishing or other water-related activities.

“Public Trust” means the land lying between 6,223 feet and 6,228.75 feet above sea level, Lake Tahoe Datum, around the perimeter of Lake Tahoe in California, that the public has rights to use for public purposes consistent with the common law public trust doctrine.

“Shoreline” means the highest line covered by Lake Tahoe or 6,228.75 feet above sea level Lake Tahoe Datum, including any accompanying beach.

“Shorezone” means the zone extending from the lake surface of Lake Tahoe to a depth of thirty (30) feet below the surface to the land lying contiguous to and immediately landward of the shoreline, including the public trust and the zone of wave run-up area above the lake surface, that is within the boundaries of the County.

“Structure” means any temporary or permanent construction or prefabricated object, including but not limited to piers, floating docks, decks, sheds, fire pits, pathways, fences, and barriers.

12.32.030 Required permits.

No person shall construct, maintain, alter, modify, or replace a structure within the shorezone without all required permits, including the following permits, as applicable.

- A. A county pier encroachment permit is required if the structure affects a county property interest.
- B. A county building permit for electrical, plumbing, or if required under the Placer County Code, other applicable regulation, or as a condition of approval.
- C. A Tahoe Regional Planning Agency permit, including environmental regulatory compliance, as required under the Tahoe Regional Planning Agency Code of Ordinances.
- D. A California State Lands Commission lease, as required by state law.

12.32.040 Pier application process.

A. Any person proposing to construct, alter, modify, or replace a structure within the shorezone must first obtain a determination from the county regarding whether or not a county permit is required.

B. The county will review the proposed project to determine if a county pier encroachment permit and/or County building permit is required. If no county permit is required, the project will

be deemed exempt. If county permits are required, the county will inform the applicant of all required permits.

C. If a county property interest is affected, a pier application shall be submitted that includes detailed plans of the proposed structure showing all affected publicly and privately owned parcels, current ownership information, any lease areas, and all existing and proposed easements.

D. Each application affecting a county property interest shall include payment of a fee to cover the cost of review and processing of the application and all information required by other sections of this article. The fee due shall be the fee adopted by the board by resolution or ordinance.

E. If a county pier encroachment permit is required, an annual use charge may be charged for ongoing private use of the county property interest.

F. County pier encroachment permits may be issued by the director of public works, or designee, with concurrence from county counsel and risk management.

G. Copies of any related permits, including a State Lands Commission lease and Tahoe Regional Planning Agency permit shall be required prior to county permit issuance.

12.32.050 Preservation of public use.

Barriers, impediments, or signage which impairs, discourages, or prohibits public passage to any portion of the shorezone that is subject to a County property interest is prohibited.

12.32.060 Inspection for conformance.

The county may inspect a structure for compliance with this article and place appropriate signage and/or markings thereon. No such signage and/or markings shall be defaced or removed without county approval. No person may place unauthorized signs or markings on or around the structure or within the county property interest.

12.32.070 State and county borders.

This ordinance applies to structures constructed wholly or partially within the shorezone in Placer County. It does not apply to structures which may cross into Placer County in the waters of Lake Tahoe.

12.32.080 Abatement and removal.

Any structure in violation of this article is declared a public nuisance and subject to the nuisance abatement procedures in Section 17.62.160. The hearing body for any hearings under this section shall be the building board of appeals.

12.32.090 Appeals.

Whenever any person is adversely affected by any action or requirement by the county under this article, such person may appeal such action or requirement to the board of supervisors. The appeal must be in writing, setting forth the specific grounds thereto and made within ten (10)

calendar days of the date of decision by the County. The written appeal shall be accompanied by an appeal fee as set from time to time by the board of supervisors.

SECTION 2. This ordinance shall take effect and be in full force sixty (60) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.